

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.3550 of 2015

ORDER:

Heard Sri M.Praveen Kumar, learned counsel for the petitioner and Sri VSR Murthy, learned counsel for the respondent.

2. This Revision Petition is filed challenging the order dt.09-07-2015 in O.S.No.144 of 2009 of the I Additional Senior Civil Judge, Warangal.

3. Petitioner herein is defendant in the said suit. The respondent/plaintiff filed the said suit for specific performance of agreement of sale dt.17-07-2002 allegedly executed by the petitioner in his favour. Written Statement was filed by the petitioner opposing the suit claim. During the course of trial, the respondent/plaintiff as P.W.1 sought to mark agreement of sale dt.17-07-2002 as Ex.A-1. This was opposed by the petitioner contending that the document is insufficiently stamped and also not registered.

4. By order dt.09-07-2015, the Court below rejected the said contention. It observed that the contents of Ex.A-1 show that balance consideration of Rs.20,000/- (Rs.3.20 lakhs) was to be paid and registered sale deed was to be obtained. It therefore concluded that it is only an agreement of sale written on stamp paper worth Rs.100/- and it is properly stamped. It further held that

though it is an agreement of sale, even if it is liable for registration, it can still be marked in a suit for specific performance under proviso of Section 49 of the Registration Act, 1908.

5. Challenging the same, this Revision Petition is filed.

6. Learned counsel for the petitioner has taken me through the contents of the agreement of sale dt.17-07-2002. The contents do not indicate that there is any reference to delivery of the property to the respondent. There is no pleading even in the plaint that possession was delivered to the respondent under the said document. In fact, it is admitted case of both sides that the respondent was earlier a tenant of the petitioner in respect of the same property. Therefore, the possession of the property was already with the respondent and there was no necessity to mention about the said fact in the agreement of sale dt.17-07-2002. Since the document dt.17-07-2002 is a simple agreement of sale, I am of the opinion that explanation to Article 47-A of Schedule 1-A of the Indian Stamp Act, 1899 is not attracted, and that it is adequately stamped. It also cannot be said to be inadmissible for want of registration, in view of the proviso to Section 49 of the Registration Act, 1908, which permits an unregistered agreement of sale to be marked in a suit for specific performance.

7. I therefore do not find any merit in the Civil

Revision Petition and the same is accordingly dismissed.

No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-09-2015

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